

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ADRIANA AGUILAR, ANDRES LEON, ELENA LEON, ERIKA GABRIELA GARCIA-LEON through her Next Friend Adriana Aguilar, CARSON AGUILAR through his Next Friend Adriana Aguilar, NELLY AMAYA, MARIO PATZAN DELEON, DAVID LAZARO PEREZ, WILLIAM LAZARO, TARCIS SAPON-DIAZ, SONIA BONILLA, BEATRIZ VELASQUEZ through her Next Friend Sonia Bonilla, DALIA VELASQUEZ through her Next Friend Sonia Bonilla, ELDER BONILLA, DIANA RODRIGUEZ, YONI REVOLORIO, JUAN JOSE MIJANGOS, GONZALO ESCALANTE, YANET MARTINEZ, RAUL AMAYA, GLORIA VANESSA AMAYA, JOHN DOE #1, JANE DOE #1, JOHN DOE #2 through his Next Friend Jane Doe #1, John Doe #3 through his Next Friend Jane Doe #1, JOHN DOE #4, and JOHN DOE #5 on behalf of themselves and all others similarly situated,

Plaintiffs,

- against -

IMMIGRATION AND CUSTOMS ENFORCEMENT DIVISION OF THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY, MICHAEL CHERTOFF, United States Secretary of the Department of Homeland Security, JULIE L. MYERS, Assistant Secretary of Homeland Security for Immigration and Customs Enforcement, JOHN P. TORRES, Director of the Office of Detention and Removal Operations, Immigration and Customs Enforcement, CHRISTOPHER SHANAHAN, New York Field Office Director for Detention and Removal Operations, PETER J. SMITH, JOSEPH A. PALMESE, JOHN and JANE DOE ICE AGENTS, and JOHN ROE and JANE ROE ICE SUPERVISORS,

Defendants.

**ECF Case
07 Civ. 8224 (JGK) (FM)**

NOTICE OF MOTION

TO:

Patrick J. Gennardo
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Foster Maer
PUERTO RICAN LEGAL DEFENSE
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90 Hudson Street, 14th Floor
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PLEASE TAKE NOTICE that upon the amended complaint, dated October 4, 2007 (“complaint”), and the exhibits annexed thereto; the Memorandum of Law of In Support of the Government’s Motion to Dismiss the First Claim of the Amended Complaint and for a Limited

Stay of Discovery; the Declaration of Darren Williams, executed on December 5, 2007, and the exhibits annexed thereto; the Declaration of Jeffrey Knopf, executed on December 7, 2007, and the exhibits annexed thereto; the Declaration of Elizabeth Wolstein, executed on December 7, 2007, and the exhibits annexed thereto; defendants U.S. Immigration and Customs Enforcement (“ICE”), Michael Chertoff, the Secretary of the Department of Homeland Security, Julie L. Myers, the Assistant Secretary of Homeland Security for ICE, and John P. Torres, Director of ICE’s Office of Detention and Removal Operations, by and through their attorney, Michael J. Garcia, United States Attorney for the Southern District of New York, will move the United States District Court for the Southern District of New York, located in the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, New York, for an order (i) pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6), dismissing the first claim of the complaint for lack of subject matter jurisdiction and failure to state a claim upon which relief can be granted, and (ii) pursuant to Federal Rule of Civil Procedure 26(c), granting a limited stay of discovery with respect to all depositions other than those of the individual-capacity defendants and all interrogatories other than those that seek to identify persons with knowledge concerning the nine home entries alleged in the complaint.

PLEASE TAKE FURTHER NOTICE that answering papers, if any, must be served by January 18, 2008, and reply papers, if any, must be served by February 8, 2008.

Dated: New York, New York
December 7, 2007

MICHAEL J. GARCIA
United States Attorney for the
Southern District of New York,
Attorney for Defendants

By: /s/
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